

# STANDARDS OF CONDUCT AND PROCEDURES FOR HANDLING SUBCONTRACTOR PERSONNEL PROBLEMS, DISCIPLINE, AND SEPARATION

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## **I. ETHICAL BUSINESS CONDUCT**

### **A. POLICY**

1. It is JPL policy to conduct business lawfully and in accordance with high ethical standards and to require its on-site support effort Subcontractors to require equivalent high standards for their Subcontractor personnel assigned to work at JPL.
2. a. The Subcontractor shall require its personnel in work assignments at JPL to abide by a code of ethical business conduct consistent with the following code, applicable to JPL personnel.
  - (1) Conduct all dealings with fairness, honesty, and integrity.
  - (2) Ensure that all financial transactions are handled in a responsible manner and recorded accurately.
  - (3) Protect information and property that belong to the Government, other sponsors, Subcontractors, and suppliers against loss, theft, damage, and misuse.
  - (4) Know and comply with the policy and practices governing business ethics.
  - (5) Avoid actual, potential, or perceived conflicts of interest.
  - (6) Recognize that even the appearance of misconduct or impropriety can be damaging to the reputation of the Institute, and act accordingly.
- b. In addition, Subcontractor personnel shall not use Government or Institute assets, or information not in the public domain, for private gain.

### **B. VIOLATIONS OF ETHICAL BUSINESS CONDUCT**

The Subcontractor must have a reporting system in place for its personnel to report suspected violations of ethical business conduct. If the Subcontractor receives a report impacting a contract with JPL, it must notify the JPL Business Ethics Advisor. In addition, Subcontractor personnel are free to call the JPL Ethics Hot Line, (818)354-9999.

### **C. KICKBACKS**

1. The Anti-Kickback Enforcement Act of 1986 was passed to deter subcontractors from making payments and Prime Contractors from accepting payments for the purpose of improperly obtaining or rewarding favorable treatment in connection with a prime contract or subcontract thereunder.
2. The prohibitions under the Act are legally and contractually binding on the Subcontractor and require the Subcontractor to have in place and follow reasonable procedures designed to prevent, detect, and report violations of prohibited conduct. Refer to the Article of this Contract entitled "Anti-Kickback Procedures."

#### D. SOLICITING OR ACCEPTING GRATUITIES

1. Subcontractor personnel must not solicit or accept from any interested party any gratuity or other thing of value either directly or indirectly for themselves or persons with whom they have personal, business or financial ties, nor shall Subcontractor personnel offer any gift or gratuity to any JPL or Government personnel. As used in this provision, an interested party is defined as any person, firm, corporation or other entity or representative thereof which has or is seeking to obtain contractual or other business or financial relations with JPL or has interests that may be substantially affected by the performance or nonperformance of the JPL-assigned work by the Subcontractor person concerned.
2. Subcontractor personnel must exercise personal judgment in determining whether acceptance of an item listed under the exceptions specified below could affect their impartiality, or reasonably be construed by others as cause for partiality. Any situation which brings discredit or embarrassment to the Subcontractor or the Laboratory or reflects a real or apparent conflict of interest must be avoided.
3. The term "gratuity or other thing of value" as used in this provision includes any gift, favor, entertainment, or other item having monetary value. This includes, but is not limited to, services, conference fees, transportation, lodging, meals, vendor promotional items and discounts not available to the general public, or loans made on a preferential basis by parties that are not financial institutions. Exceptions are:
  - a. Anything for which market value is paid.
  - b. Purchase of articles or services at advantageous rates or discounts openly offered to all JPL Subcontractor personnel.
  - c. Plaques or certificates having no intrinsic value.
  - d. Any unsolicited advertising or promotional item, other than money, such as pens, pencils, note pads, calendars or other items having a market value of no more than \$20 per item or event, with a maximum of \$50 from any one vendor in a calendar year.
  - e. Local transportation on official business, when alternate arrangements are impractical or where it will facilitate the conduct of official business. For example, it is acceptable to rideshare in a NASA vehicle between JPL facilities.
  - f. Accepting a gift or donation of nominal value at retirement.
  - g. Accepting a gift when an obvious and clear personal relationship exists and the present circumstances make it clear that the gift is motivated by the personal relationship involved rather than the business relationship.
  - h. Accepting refreshments such as coffee and donuts (under the "good host" concept) when served in a place of business to facilitate the conduct of official business and when no provisions exist for individual payment.
4. Reciprocity is not an exception. Offering a reciprocal gift or other thing of value does not mitigate the negative appearance associated with accepting the original gratuity.
5. It is generally not permissible to accept a meal from JPL since it could cause, or be construed by others as a cause for, partiality. JPL and Subcontractor personnel are required to pay for meals

when provisions for making payment are reasonably available (e.g. dining in a Subcontractor's cafeteria or at a restaurant).

6. For the purposes of this instruction, the term "market value" means the price the Subcontractor person would pay to purchase the item from an outside source or business at that particular point in time. The term "services" means any act or work performed by another, such as maintenance, repair, assistance, or favors, for which the Subcontractor person would incur a cost to purchase a similar service.

## E. CONFLICT OF INTEREST IN PROCUREMENTS

### 1. Participation in Federal Agency Procurements.

- a. Due to the nature of JPL's work, it is possible for Laboratory and Subcontractor personnel to be involved as evaluators, experts, consultants, or advisors (procurement officials) in Federal agency procurements. The Procurement Integrity Act, which applies to persons serving in such a capacity, prohibits the following conduct:
  - (1) Soliciting, accepting, or discussing future employment or business opportunity with a competing Subcontractor (i.e., any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract to be awarded under a Federal agency procurement).
  - (2) Seeking or accepting any money, gratuity, or other thing of value from a Subcontractor competing for a Federal agency procurement, including an incumbent Subcontractor in the case of a modification.
  - (3) Disclosing proprietary or source selection information regarding a Federal agency procurement to any person not authorized to receive the information.
- b. Subcontractor personnel may be asked by Federal agencies to certify that they will comply with the above prohibitions as a condition of becoming procurement officials. Subcontractor personnel who believe they may be assigned to JPL work that would make them "procurement officials" on Federal agency procurements should contact the JPL Prime Contract Administration Office for further instructions.

### 2. Participating in JPL Procurements.

Subcontractor personnel or outside consultants who are requested by JPL to participate in a JPL procurement action must abide by the same conflict of interest requirements as JPL personnel. Subcontractors shall require such individuals to contact cognizant JPL Acquisition Division personnel to obtain information concerning JPL conflict of interest requirements.

## F. SUBCONTRACTOR PERSONNEL PARTICIPATION IN OUTSIDE BUSINESS ACTIVITIES

The Subcontractor agrees to maintain a policy regarding outside employment, consulting, and business activity applicable to its personnel assigned to work on this Contract to ensure the following:

1. Subcontractor personnel do not participate in outside activities that create an actual, potential, or the appearance of a conflict of interest with JPL work.
  - a. Subcontractor personnel should not use their positions at JPL in a manner that is motivated by the desire for private gain outside of their work for JPL for themselves or persons with whom they have personal, business, or financial ties.
  - b. Subcontractor personnel should avoid any outside activity that could adversely affect, or give the appearance of adversely affecting, the independence and objectivity of their judgment or interfere

with the timely performance of their work.<sup>2</sup> Subcontractor personnel are prohibited from performing any outside activity on JPL work time. Additionally, the use of the name, seal, or letterhead of the California Institute of Technology, the Jet Propulsion Laboratory, or any other Institute or Laboratory facility or organization or the use of any Laboratory equipment or facilities, services, or supplies (e.g., computers and software, reproduction machines, telephones, mail service, stationery) in connection with an outside activity is prohibited.

3. Subcontractor personnel will not engage in outside activity to such an extent as to be detrimental to work being performed for JPL.

## G. FRAUDULENT ACTIVITIES

In the performance of the contract work, Subcontractors are subject to a range of Federal statutes dealing with fraud-related activities. Subcontractor personnel should be aware of their responsibilities and actions that would constitute fraud. Fraud for which Subcontractor personnel may be liable, both criminally and civilly, for conduct connected with work performed under this Contract may include the following intentional actions:

1. Making an oral or written false statement or representation.
2. Making or using a false writing or document, knowing it to contain a false statement or entry.
3. Falsifying, concealing, or covering up a material fact.
4. Making or presenting a claim, knowing it to be false.
5. Conspiring with one or more persons to enter into an agreement or scheme to defraud the Government in any manner or for any purpose.
6. Scheming to defraud by using the U.S. mails or transmitting or causing to be transmitted, interstate or foreign, any signals (e.g., e-mail, FAX, wire, radio, or television communication) for purposes of executing a fraudulent scheme.

## II. ADDITIONAL STANDARDS AND PROCEDURES FOR SUBCONTRACTOR PERSONNEL ON-SITE CONDUCT

### A. GENERAL

Matters involving such issues as discrimination, sexual harassment, drug and alcohol abuse, safety and security violations, fraud, and work-related problems and other unacceptable conduct involving Subcontractor personnel are to be handled by JPL and the Subcontractor as follows:

1. Considerations.
  - a. JPL managers, supervisors, and other JPL personnel are to avoid interference with, or involvement in, the employer-employee personnel relationship between a Subcontractor and its personnel.
  - b. Subcontractor personnel are individually subject to the same on-site rules of conduct as are JPL personnel. Enforcement of disciplinary measures is to be accomplished through the Subcontractor.

- c. Subcontractor personnel are expected to report unethical business practices and suspected violations of ethics-related laws, such as the Anti-Kickback Act, to their Subcontractor (see Part I, above). Subcontractor personnel may seek guidance from the JPL Business Ethics Advisor.
- d. Formal JPL recourse, relative to Subcontractor personnel conduct or work performance problems, is exercised in terms of access to the Laboratory and Subcontractor cost reimbursement.

## 2. Process

Any Subcontractor personnel work performance problems identified by Laboratory management, which are not readily resolved through normal processes of individual communication, shall be brought to the attention of the Subcontractor.

- a. The Subcontractor's on-site Contract Manager or Administrator shall be the referral point for problem situations. Contact with such an on-site representative will be established either directly or through the cognizant JPL Subcontracts Manager.
- b. If there is no on-site Contract Manager or Administrator, communication with the Subcontractor will be handled through the cognizant JPL Subcontracts Manager.
- c. If the Subcontractor person is an individual Subcontractor (i.e., self-employed), the concern should be discussed with the cognizant JPL Subcontracts Manager.
- d. The Subcontractor shall investigate and take appropriate disciplinary action. The action shall be communicated to the JPL Subcontracts Manager by the Subcontractor.
- e. In cases where the cognizant JPL manager or supervisor believes that the resulting disciplinary action taken by a Subcontractor is unsatisfactory, they should refer the matter to the cognizant JPL Subcontracts Manager to determine further appropriate actions.

## B. SEXUAL HARASSMENT IN THE WORKPLACE

### 1. The Laboratory will not tolerate sexual harassment in the workplace.

- a. Sexual harassment is defined as any unwanted physical, verbal or visual sexual advances, requests for sexual favors, or other sexually-oriented conduct, which is offensive or objectionable to the recipient, including, but not limited to, the following:
  - (1) Epithets;
  - (2) Derogatory or suggestive comments, slurs or gestures; and
  - (3) Offensive posters, cartoons, pictures, or drawings.
- b. A violation of Laboratory policy to provide a workplace free of sexual harassment would occur when:
  - (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
  - (2) Submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting such individual; or

- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.
2. Subcontractor management, at all levels, is responsible for taking corrective action to prevent harassment by Subcontractor personnel in the workplace.
3. JPL and Subcontractor personnel have the legal right at any time to raise the issue of sexual harassment without fear of reprisal.
4. If the Subcontractor receives an allegation that any of its personnel have sexually harassed anyone at the JPL workplace, the Subcontractor will promptly investigate, giving due regard to the need for confidentiality when possible.
5. Procedure for a Subcontractor person to report sexual harassment:
  - a. Complaints of sexual harassment should be brought to the attention of one or more of the following:
    - (1) Subcontractor management.
    - (2) The JPL Affirmative Action Program Office.
    - (3) The JPL Equal Employment Opportunity Officer.
    - (4) The JPL Employee Relations Group.
    - (5) The JPL Employee Assistance Program Counselor.
    - (6) The JPL Human Resources Division Manager.
  - b. Subcontractor personnel may also choose to raise the complaint through their immediate JPL supervisor, the Advisory Council for Women or the Advisory Committee on Minority Affairs who will, in turn, contact any of the offices listed under paragraph a., above.
6. After notification of a complaint by any Subcontractor personnel, Subcontractor management or the cognizant JPL supervisor will immediately contact any one of the offices listed under paragraph 5.a., above.
7. Resolution of complaints.
  - a. After notification of a complaint against any Subcontractor personnel, Subcontractor management will be notified immediately to investigate.
  - b. After notification of a complaint against a JPL employee, a confidential investigation will be initiated immediately by JPL Employee Relations to gather all the facts about the complaint.
  - c. After the investigation has been completed, a determination will be made by appropriate Subcontractor and JPL management regarding the resolution of the case. If warranted, disciplinary action will be taken up to and including release of JPL personnel from JPL or separation of Subcontractor personnel from JPL.



### C. ALCOHOL OR DRUG USE

1. In accordance with the Article of this Contract entitled "Drug-Free Workplace Requirements," the Subcontractor must inform Subcontractor personnel that they are required to comply with JPL's policy of maintaining a JPL workplace free of alcohol and illegal drugs. All personnel, including Subcontractor personnel, are required to comply with the Laboratory's policy on a drug-free workplace. Violation of this policy is likely to result in the individual being barred from the workplace, even for a first offense.
2. JPL substance abuse "awareness" programs are open to the following Subcontractor personnel:
  - a. On-site contract administrators, in the case of a blanket support effort contract.
  - b. On-site Contract managers and supervisors, in the cases of fixed-price completion contracts and cost-type task contracts.
  - c. Other Subcontractor personnel, as requested by the cognizant JPL supervisor.
3. Disciplinary problems that are related to work performance or conduct, and arise out of suspected alcohol or drug abuse, shall be the responsibility of the Subcontractor.

### D. PARKING/TRAFFIC VIOLATIONS

Subcontractor personnel are required to comply with JPL's parking and traffic regulations. When an on-site parking or traffic violation occurs and any Subcontractor personnel are issued a citation, the following procedures shall apply:

1. The Plant Protection Section sends a copy of the citation to the Subcontractor (with information copies to the cognizant division office and the Acquisition Division), requesting the Subcontractor to report within 10 working days as to the disciplinary actions taken or planned.
2. The Plant Protection Section informs the cognizant JPL supervisor and the Acquisition Division of such action.
3. If the Plant Protection Section does not receive an appropriate response within 10 working days, the cognizant JPL Subcontracts Manager works with the Subcontractor to resolve the matter.
4. Parking privileges may be revoked without completing the above procedures when rapidly repeated violations do not allow sufficient time for an adequate response from the Subcontractor.

### E. SAFETY VIOLATIONS

Safety violations committed by Subcontractor personnel will be addressed by the cognizant JPL supervisor and/or the JPL Occupational Safety Program Office (OSPO). In instances of serious safety violations, OSPO will send a letter regarding the violation to the cognizant JPL Subcontracts Manager for communication to the Subcontractor.

## F. OTHER VIOLATIONS

Cognizant JPL supervisors are expected to handle minor problems directly with the Subcontractor person in appropriate ways. More serious problems shall be handled on a case-by-case basis with the Subcontractor, involving the cognizant JPL Subcontracts Manager as necessary.

## G. REIMBURSABLE HOURS

Subcontractors are reimbursed only for the specific hours worked by their personnel, which have been authorized by JPL in accordance with corresponding contract terms. Subcontractors are not reimbursed for any scheduled time not worked due to their personnel being directed by JPL to leave, or not report to, their JPL workstations when JPL deems it to be unsafe or useless to work at their JPL workstations due to earthquake, fire, civil disturbance, hazardous materials (HAZMAT) incident, power outage, or other situations.

## H. PROBLEMS IDENTIFIED BY A SUBCONTRACTOR PERSON

When any individual Subcontractor personnel believes that he or she is being subjected to unfair treatment by JPL or other Subcontractor personnel, recourse is through the Subcontractor and not directly through JPL. In these instances, the following procedures apply:

1. The cognizant JPL supervisor shall direct complaining Subcontractor personnel to the respective employer (the Subcontractor) (in many cases, through the on-site contract manager or administrator).
2. The Subcontractor shall discuss the concern with the cognizant JPL Subcontracts Manager or technical contract manager.
3. The cognizant JPL Subcontracts Manager and contract technical manager will involve appropriate JPL officials (e.g., the Human Resources Division Manager) as necessary to resolve the matter.

## I. SEPARATION PROCESS

This section deals with the process involved at the conclusion of Subcontractor personnel work assignments at JPL. JPL may return Subcontractor personnel to the Subcontractor for any reason, including:

1. The expiration of the CWO.
2. The work or funding for the work ends.
3. Subcontractor personnel work is deemed unsatisfactory.
4. Subcontractor personnel violate applicable work rules.

*NOTE: Termination of employment, if it occurs, is solely a matter between the Subcontractor and their respective personnel.*